

# It All Started with *Columbo*: Teaching Law with Popular Culture

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Law and humanities scholarship—and more specifically, law and popular culture scholarship<sup>1</sup>—has probably shaped my professional identity as much as my scholarship in any other area. The first “doctrinal” article I published in a law review was a “law and popular culture” piece called *Columbo Goes to Law School: Or, Some Thoughts on the Uses of Television in the Teaching of Law*.<sup>2</sup> I loved Peter Falk’s portrayal of the scruffy Lieutenant and the inverted mysteries that William Levinson and Richard Link gave his character to solve. I particularly appreciated the image of justice that the ninety-minute films delivered so reliably. I also thought that the easy-to-follow formula allowed professors and students to focus on the issues that various episodes presented. The accessibility and memorable reflection of law that our popular culture provides seemed to me to make it a useful vehicle for supplementing a course casebook.<sup>3</sup> I didn’t yet think that one could create an entire course around law and popular culture.

Lawrence M. Friedman offered a definition of law and popular culture as early as 1989:

[L]aw as it appears in songs, in stories, in movies, in newspapers, in novels and detective fiction; the law as shown on television or recounted in *Time* or *Reader’s Digest*; law and its practitioners as butt and punchline of scores of jokes. The study of popular legal culture is a relatively new field of inquiry, with a small but growing literature.<sup>4</sup>

I had only a preliminary idea of the movement into which the *Columbo* article I had written fit in terms of pedagogy and scholarship, but it seemed to me **Christine A. Corcos** is Richard C. Cadwallader Associate Professor of Law, Louisiana State University Law Center; Associate Professor, Women’s and Gender Studies, Louisiana State University A & M.

1. Lawrence M. Friedman, *Law, Lawyers, and Popular Culture*, 98 YALE L. J. 1579, 1587 (1989).
2. 13 LOYOLA L.A. ENT. L.J. 499 (1992).
3. In other essays in this symposium, faculty demonstrate how one can do so. In a forthcoming collection of essays, to be published by Carolina Academic Press, some of them as well as other law faculty show how film, literature, graphic novels, and other media can assist students in learning the law school curriculum. *TEACHING LAW WITH POPULAR CULTURE* (Carolina Academic Press, 2018).
4. Friedman, *supra* note 1, at 1587.

at the time that popular culture had a great deal to say about law, and that legal educators should listen. At the time, relatively few law school professors seemed to agree, although the article made its way onto some bibliographies and, to my satisfaction, received some citations.<sup>5</sup> Using law and popular culture and law and humanities approaches in the classroom speaks even more directly to today's students because they are such capable, informed, and habitual consumers of this culture. They don't all consume the *same* culture, but they all consume some of it. We want them to make connections among legal institutions, legal norms, legal and public policies, and the culture that shapes that policy. If we teach them about the use of hate speech on social media in a course on the First Amendment, logging on to the social media in question and demonstrating the actual environment (Twitter, Facebook) is much more enlightening than merely talking about it abstractly in class. In any case, many of them may know more about social media than we do, and that poses a challenge for us to keep up with them.

Embedding popular culture or humanities (or science) in doctrinal courses is one way to engage students and make doctrine more vibrant for them. Another approach is to use popular culture or humanities as the doctrine itself and provide it as a lens through which to study the law, as Friedman suggests. This approach is the one I use in teaching a seminar on Law and Society at Louisiana State University Law Center.

I view the law and popular culture (or law and humanities) approach as a valuable tool because it allows law students to situate some of the doctrine they learn in other courses in ways that allow them to appreciate the culture in which the doctrine has developed. In legal education, we tend to teach doctrine and to give short shrift to interdisciplinary study, partly because we have so little time to expose students to voluminous material contained in legal texts. We assume that they already know the history, the politics, the philosophy, the culture that serves as the background for the opinions or the statutes or the constitutional texts that they read.

Yet, as we often discover to our dismay, these assumptions about our students' general education may be unwarranted. Fewer and fewer of our students seem to know much about history, an area whose substance and methodology is important to lawyering.<sup>6</sup> Their general knowledge of politics, philosophy, biology, geography, civics, culture (except for current culture such as hip-hop, current movies, or current sports heroes) is not extensive.<sup>7</sup>

5. See, e.g., Arturo L. Torres & Karen E. Harwood, *Moving Beyond Langdell: An Annotated Bibliography of Current Methods for Law Teaching*, 29 GONZ. L. REV. 1 (1994); Steve Sheppard, *Casebooks, Commentaries, and Curmudgeons: An Introductory History of Law in the Lecture Hall*, 82 IOWA L. REV. 547 (1997).

6. Such observations are not new. See Robert M. Jarvis, Phyllis G. Coleman & Gail Levin Richmond, *Contextual Thinking: Why Law Students (and Lawyers) Need to Know History*, 42 WAYNE L. REV. 1603 (1996).

7. This trend seems to have started some years ago. See Richard P. Vance & Robert W. Prichard, *Measuring Cultural Knowledge of Law Students*, 42 J. LEGAL EDUC. 233 (1992); Debra Moss Curtis,

Many students may lack critical thinking skills as well as general knowledge about the world, in spite of grades high enough to get them admission to law school.<sup>8</sup> But as teachers we can take steps to meet them where they are and help them move further along to where they need to be in their legal education. Even before they begin law school, most law students are consumers and appreciators of popular culture. A course in law and popular culture can enable students to understand the legal system more completely and to grasp interactions between legal and cultural patterns. Such a course can expose students to such general questions as why many nonlawyers seem to dislike lawyers, and why that dislike dates back centuries; how films and television shows depict the activities of the justice system and whether these depictions suggest bias against minorities; and how nonlawyers interpret specific aspects of the legal system, such as the functioning of the jury system or the death penalty. In that way, they can move closer to one of their goals, to be more capable and informed actors and representatives of the legal system.

The first problem an aspiring teacher of law and popular culture encounters may be to secure the school's approval to introduce the course into the curriculum. Approval may require some persuasion. Even nearly thirty years after Friedman's article, colleagues may believe that such courses are not as valuable in the law school curriculum as courses in tax law or energy law or international law. Law and pop culture courses may appear to be a little suspect because the subject matter seems intellectually "light."<sup>9</sup> Yet understanding what motivates attitudes toward the legal profession, toward law enforcement, toward images of lawyers, is profoundly important not just for legal academics to understand, but for practitioners to grasp. A juror's attitude toward an attorney can shape the way that juror accepts the attorney's presentation of a case. If the attorney understands how the juror consumes certain kinds of television shows and thinks about lawyers or police officers, that attorney can more effectively present her narrative.<sup>10</sup> Law students who study these lay attitudes in law school can then incorporate them as they need to in their professional work later on.

The second problem that a new law and pop culture teacher encounters is structuring and organizing the course. Teaching an interdisciplinary course such as law and popular culture may look easy. It may seem that all one has to do is assign some movies or TV episodes, or perhaps locate some "bad lawyer"

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*Teach the Children Well: Incorporating Cultural Literacy into the Law School Learning Experience*, 37 CUMB. L. REV. 177 (2007).

8. Rebecca Flanagan, *The Kids Aren't Alright: Rethinking The Law Student Skills Deficit*, 2015 BYU EDUC. & L.J. 135 (2015).
9. For an examination of the extent to which popular culture can help law make meaning, see Richard K. Sherwin, *A Manifesto for Visual Legal Realism*, 40 LOY. L. A. L. REV. 719 (2006).
10. Juror expectations of presentation of forensic evidence at trial might vary based on whether they routinely watch television shows such as *CSI* (this expectation is called "the CSI effect"). See, e.g., Dante E. Mancini, *The "CSI Effect" in an Actual Juror Sample: Why Crime Show Genre May Matter*, 15 NORTH AM. J. PSYCH. WINTER GARDEN 543 (Dec. 2013).

commercials on YouTube for showing and discussion in class, and assign some questions. The material almost teaches itself. But such is not the case. Preparing and presenting this kind of information as well as related material in a coherent manner is as difficult and requires as much knowledge of the discipline as does preparation and presentation in any other area of the legal curriculum.

A third problem that law and popular culture teachers must grapple with is the need to devote requisite effort to acquiring and maintaining training in interdisciplinary scholarship and teaching. Either through formal training or as a result of interests they develop through their own legal scholarship, faculty can acquire expertise in interdisciplinary work. But the intersection of two bodies of knowledge results in a specialized body of knowledge itself that requires concentrated effort to understand and convey to others. Taken at its most elemental level, however, much of what lawyers do requires them to understand the world around them, but law professors often do not explicitly acknowledge the need to teach beyond the formal law.<sup>11</sup>

Organizing and structuring a law and popular culture course is easier if the instructor starts with a text that reflects or incorporates her approach to the course.<sup>12</sup> In my Law and Society seminar, I use a casebook, *Law and Popular Culture: Texts, Notes, and Questions*, which I co-authored with several other law professors.<sup>13</sup> We organized the book in three sections: an introduction, a section on legal actors and institutions, and a section on legal subject areas. Each chapter in the latter two sections centers on five films that address the subject of the chapter. These films are generally available on DVD or via streaming. In addition, the chapters discuss various themes not just in the films but in other media. Thus, if the theme is witnesses in the legal system, the author of that chapter discusses witnesses in the five films highlighted in that chapter,<sup>14</sup> and in television shows, novels, commercials, and other popular culture examples. So an instructor using the chapter for that week might focus on the theme of witnesses and witnessing in various ways by giving students additional materials to discuss and encouraging them to identify additional ways in which witnessing is part of the legal system.

In terms of organizing the course, we suggest devoting one week to each chapter, which allows the instructor to cover almost the entire text. For the first few weeks of the semester, for example, I select one film out of the five

11. Kim Diana Connolly, *Elucidating the Elephant: Interdisciplinary Law School Classes*, 11 WASH. U. J.L. & POL'Y 11, 13-14 (2003).

12. Obviously, one could take many, many different approaches to teaching the course. See, e.g., James R. Elkins, *Popular Culture, Legal Films, and Legal Film Critics*, 40 LOY. L.A. L. REV. 745 (2006).

13. DAVID RAY PAPKE, CHRISTINE ALICE CORCOS, PETER HENRY HUANG, LENORA P. LEDWON, CARRIE MENKEL-MEADOW, PHILIP N. MEYER, BINNY MILLER, & SEAN O'BRIEN, *LAW AND POPULAR CULTURE: TEXT, NOTES, AND QUESTIONS* (2d ed. 2012).

14. The five films we use in the "Witnesses" chapter are *The Accused* (1988), *The Crucible* (1996), *My Cousin Vinny* (1992), *Witness for the Prosecution* (1957), and *The Wrong Man* (1956).

listed for each chapter, and my students and I cover all the chapters on legal actors and institutions. Students watch the selected film before attending class, usually making their own arrangements to do so, although I put the assigned films on class reserve, as well as many of the other films listed in each chapter. Most students have Netflix accounts, and some also subscribe to Hulu or other streaming services.<sup>15</sup> One helpful site for identifying how to watch films and television episodes is JustWatch, which gives availability and pricing information for hundreds of movies and TV series.<sup>16</sup> We cover three to four subject chapters, and then, because we cannot cover all of the chapters in the casebook, the students vote on the remaining subject chapters they would like to discuss. The most popular chapters are usually torts, constitutional law, family law, and criminal law. The students in the class seem to consider the list of films before they vote, because I often get comments about the selection of films for some of the chapters (the choices for business law, which include *Margin Call* and *Too Big to Fail*, seem less popular than some of the family law and constitutional law choices). The number of weeks devoted to chapters from the book varies from semester to semester, depending on the number of guest lecturers I am able to invite and the number of students enrolled in the class. Based on the enrollment, I put aside either one or two class days for student research presentations (discussed below).

In addition to the film assignment, I post open-ended discussion questions about the film and the reading in the chapter to facilitate class discussion. I give students until two hours before class begins to answer through the Moodle interface the usually four to five questions that I post.<sup>17</sup> (LSU currently uses Moodle as its course management system.) The questions are not solely about the film; they include questions about the text as well. I set up the questions in a format that requires students to post their answers before they can see other students' answers. In that way, I avoid "copycatting." However, I have noticed that students sometimes answer in relatively short phrases rather than by giving more elaborate responses, even though these answers are ten percent of their grade. They do, however, tend to expand on their opinions in class.

During the semester, I invite Travis H. Williams, a local filmmaker,<sup>18</sup> to give a guest lecture on the elements of filmmaking, narrative, and choice of subjects. Before his visit, I assign the chapters on "Film as an Art," "Technology: Image

15. Interestingly, many students point out that some films are available on the web, on sites such as YouTube, generally in violation of copyright, which gives us some opportunity to discuss creators' rights, a subject I discuss in more depth in my course in entertainment law.

16. JUSTWATCH, <https://www.justwatch.com/us> (visited Sept. 22, 2017).

17. Moodle is an open-source course-management system used by educational institutions around the world to provide, among other things, access to class materials, facilitate teaching, and enable student evaluations. See <https://moodle.org/> (visited Oct. 20, 2017).

18. Travis Hedges Williams. See *Travis Hedges Williams*, IMBD, <http://www.imdb.com/name/nm6822040/> (visited Sept. 25, 2017); HEDGES PICTURES, <http://hedgespictures.com/> (visited Sept. 25, 2017). If you would like to receive a copy of his PowerPoint slides, please request them from the author by e-mail.

and Sound,” and “The Language of Film: Signs and Syntax,” from James Monaco’s *How to Read a Film*.<sup>19</sup> Mr. Williams’s visit is always a tremendous success, partly because he is an excellent teacher and understands very well how to break down film-related concepts for the beginner. He also uses contemporary films, particularly those that are or have recently been in theaters, to illustrate these concepts. He explains semiotics and style, and the students are fascinated. He discusses the role of the director, various design elements, and the difference between story and plot. In particular, he emphasizes the role of the director as the individual who makes the choices for the film; the end result is the director’s vision. He explains to the students that what appears on screen, as well as what does not, is the director’s choice. As he notes, “Every single thing you see or hear in a film is a deliberate choice of the filmmaker. Every choice was made in the interest of the moment/story.” Music and dialogue are choices the director makes, as is silence.

Finally, he discusses his own films and filmmaking with the students, who have the opportunity to ask specific questions about why filmmakers make the choices they do about story and film direction (such as lighting and framing), as well as other, more esoteric decisions. The students apply the ideas described in the text and in Mr. Williams’ lecture to the films that they watch in the remainder of the course. They also begin to think much more in depth about other media, such as art and the written word. Another benefit of inviting guests such as Mr. Williams is that it offers students the opportunity to contact experts in other disciplines when they need to acquire such knowledge in the course of their law practice.

The students also select a paper topic that interests them and write a seminar paper that they present at the end of the semester. I don’t limit their choice of topic; I ask them only to select something that is discussed in or related to the topics mentioned in the casebook. In the past, students have turned in papers on civil procedure in the Harry Potter novels, the legal regime in the television show *Game of Thrones*, immigration law in U.S. films, the image of criminal law in U.S. musicals, the Southern lawyer in movies, justice and Christianity in *The Count of Monte Cristo*, and the image of forensics experts on television shows. To assist them in preparing to write the final paper, I give them several smaller assignments intended to develop their ideas. They first turn in a paper proposal of approximately 250 to 300 words and an annotated bibliography of ten to fifteen sources that they believe will assist them in writing their papers. Later in the semester they submit a first draft, which I comment on and return to them.

Finally, each of the various assignments makes up part of the students’ grades, which gives them the opportunity to “spread the risk” and to earn a higher grade in the course than they might if the entire grade were dependent just on the draft and the paper.<sup>20</sup> The seminar paper is worth fifty percent of

19. JAMES MONACO, *HOW TO READ A FILM: MOVIES, MEDIA, AND BEYOND* 24-169 (4th ed. 2009).

20. While LSU Law Center has a mandatory grading curve for larger classes (those with thirty students and over) and a suggested grading curve for smaller classes, no grading curve



the grade, the first draft is worth fifteen percent, the proposal and annotated bibliography are worth ten percent, and the discussion questions and class participation (including the research presentation) are worth twenty-five percent.<sup>21</sup> Students generally put a great deal of work into their presentations, preparing PowerPoint slides, showing videos, and demonstrating great command of the information and analysis of their topics. Depending on how many students enroll in the seminar, we devote either one or two class sessions to class presentations, but students generally have about twenty minutes to present a summary of their research, and then answer questions. I expect each class member to have read all drafts by other students in the seminar and to have prepared two to three thoughtful questions to ask. To make the sessions a little less stressful, I provide food and drink (usually pizza, soft drinks, and bottled water). By the end of the semester the students not only demonstrate knowledge of a discrete area of law and popular culture but hold specific opinions on how popular culture affects law and how law influences pop culture. They also, almost uniformly, have a deeper understanding of the origin of many nonlawyers' unflattering views of attorneys and the legal system.

Like other interdisciplinary courses, a law and popular culture course offers students the opportunity to study generally how law and culture interact and to develop their own theories of why such interactions occur the way they do. Because law students have personal experiences of popular culture, and many of them enjoy tracing the links between the entertainment they enjoy and the career for which they are preparing themselves, such a course also allows them to take their natural interest in both and apply it to doing research, thinking, writing, and presenting about a specific topic that helps them develop some expertise in the area and some understanding of its importance and influence.

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applies to seminars.

21. ABA rules require that the writing requirement experience include a draft, on which the instructor comments. I include the other components to assist students in honing their writing skills and in practicing different types of writing, including short-answer questions.